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10/702,408	11/06/2003	Timothy E. Bean	15436.176.1	8343

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ART UNIT	PAPER NUMBER
2188	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/702,408	BEAN ET AL.
	Examiner	Art Unit	
	Michael B. McFadden	2188	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 February 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-30</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-30</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 February 2007</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   Claims 1-30 are pending in the Application.

Response to Amendment

2.   Applicant's arguments filed on 21 February 2007 have been fully considered but
they are not persuasive.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-6, 9-11, and 13-30 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Cook et al. (herein Cook (US Patent No. 6,965,574)) and further in
view of Leftwich (US Patent No. 6,356,256).

5.   **Regarding Claim 1,** Cook discloses A method of analyzing network traffic on a
network, the network traffic having been captured at a network monitoring computer
during a period of time, the method comprising: at a user computer remote from the
network monitoring computer, receiving data points corresponding to the captured

network traffic, the data points comprising: for the captured network traffic, start time, end time, total frames and total bytes; and information about sections of the captured network traffic, the information including start time, end time, number of frames in the section and number of bytes in the section. **(See Cook: Figure 3)**

Cook fails to disclose storing a histogram, including the data points, at the user computer.

Leftwich discloses storing a histogram, including the data points, at the user computer. **(See Leftwich: Figure 4 and 3B)**

Cook: Figure 3 shows the organization of network traffic. The number of packets, number of bytes, flow start and end time are all present in the network traffic information. Knowing the flow start time and end time gives you the total clock ticks of the capture. In Leftwich: Figure 4 the graph contains tabs for usage statistics and burst management. These would be relating specifically to network traffic. In Leftwich: Figure 3B it is shown in the picture that the graphical user interface is connected across a network to the data gathering mass storage device, therefore making it remote.

Cook and Leftwich are analogous art because they are from the same field of endeavor, presenting communication performance history data.

At the time of invention it would have been obvious to one of ordinary skill in the art to use the graphical display of Leftwich to display the network traffic data of Cook.

The motivation for doing so would have been to make information easily perceivable by a user. **(Leftwich: Column 1, Lines 28-31)**

Therefore, it would have been obvious to combine the graphical display of

Leftwich with the network traffic data collecting system of Cook for the benefit of making

information easily perceivable by a user to obtain the invention as specified in claim 1.

6.   **Claim 2 is rejected using the same rationale as Claim 1.**

7.   **Regarding Claim 3,** Leftwich discloses presenting a user with a graphical user

interface representation of the network traffic comprises: including a zoom window, the

zoom window useful for highlighting a segment of the capture histogram, and

representing the segment of the capture histogram in a zoom histogram. **(See**

Leftwich: Figure 5A and 5B also See Leftwich: Column 5, Lines 44-51) The user

clicks and drags to create a zoom window and the zoom is then displayed as a

response to the user input.

8.   **Regarding Claim 4,** Leftwich discloses including a data selection window useful

for highlighting a segment of the zoom histogram; storing a first downloaded captured

data file that includes sections corresponding to the segment of the zoom histogram

highlighted by the data selection window; and displaying data frames corresponding to

the highlighted segment of the zoom window. **(See Leftwich: Column 5, Lines 37-42)**

The cursor is used to select a segment. Then the data points corresponding to

the selection are shown in the histogram window, Figure 4, Element 36.

9.   **Claim 5 is rejected using the same rationale as Claim 4.**

10.   **Claim 6 is rejected using the same rationale as Claim 1.**

11.   **Regarding Claim 9,** Cook discloses the histogram further comprising a listing

and description of downloaded captured data files stored on the user computer, the

method further comprising using the listing and description of downloaded captured

data files to code portions of the capture histogram and the zoom histogram with a first

indicator representing sections stored at the user computer. **The system locates the**

files when it needs to access them for processing and displaying. Therefore, the

system must contain indicators to locate the files it is using.

12.   **Claim 10 is rejected using the same rationale as Claim 9.**

13.   **Claim 11 is rejected using the same rationale as Claim 9.**

14.   **Regarding Claim 13,** Cook discloses downloading sections from the network

monitoring computer that are not stored in downloaded captured data files at the user

computer; and combining the downloaded sections with a downloaded captured data

file that was previously stored at the user computer. **The original files were taken**

from the network monitoring computer and used at the graphical user interface of

the user computer to generate the histogram. If specific files or data is requested

that is not at the user computer the network monitoring computer is still fully

capable of providing data.

15.   **Regarding Claim 14,** Cook discloses saving the histogram for later use. **See**

Cook: Column 6, Lines 43-44. Cook discloses storing the data in persistent

storage.

16.   **Regarding Claim 15,** Cook discloses opening the histogram; determining if the

histogram corresponds to network traffic stored on the network monitoring computer

using timestamps; if the histogram corresponds to network traffic stored on the network

monitoring computer, establishing a relationship between the network monitoring

computer and the user computer such that network traffic existing on the network monitoring computer may be downloaded to the user computer. **See Cook: Column 6, Lines 43-44. Cook discloses storing the data in persistent storage. If the system can store the data it also will be able to open the stored files. The original files were taken from the network monitoring computer and used at the graphical user interface of the user computer to generate the histogram. If the saved file opens and specific files or data that is requested is not at the user computer the network monitoring computer is still fully capable of providing data.**

17.   **Claim 16 is rejected using the same rationale as Claim 14.**

18.   **Claim 17 is rejected using the same rationale as Claim 1.**

19.   **Claim 18 is rejected using the same rationale as Claim 1.**

20.   **Claim 19 is rejected using the same rationale as Claim 1.**

21.   **Claim 20 is rejected using the same rationale as Claim 1.**

22.   **Claim 21 is rejected using the same rationale as Claim 1.**

23..   **Claim 22 is rejected using the same rationale as Claim 13.**

24.   **Claim 23 is rejected using the same rationale as Claim 1.**

25.   **The Examiner takes Official Notice that a top-level folder for organizing data fields into a file structure, along with the naming of the files, folders, etc. that are associated with the file structure, would be obvious to a person of ordinary skill in the art. Many operating systems that have been used and that are used today include this function.**

26.   **Regarding Claim 24 is rejected using the same rationale as Claim 23.**

27.   **Regarding Claim 25 is rejected using the same rationale as Claim 23.**

28.   **Regarding Claim 26 is rejected using the same rationale as Claim 23.**

29.   **Regarding Claim 27 is rejected using the same rationale as Claim 23.**

30.   **Regarding Claim 28 is rejected using the same rationale as Claim 15.**

31.   **Regarding Claim 29 is rejected using the same rationale as Claim 1.**

32.   **Regarding Claim 30 is rejected using the same rationale as Claim 3.**

33.   Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cook et al. (herein Cook (US Patent No. 6,965,574)), Leftwich (US Patent No.

6,356,256), and further in view of Mazumder (US Patent No. 6,580,959).

34.   **Regarding Claim 7,** Cook and Leftwich disclose presenting a user with a

graphical user interface representation of the network traffic.

Cook and Leftwich fail to disclose applying a compression algorithm to at least a

portion of the information in the histogram.

Mazumder discloses applying a compression algorithm to at least a portion of the

information in the histogram.

Mazumder teaches using an efficient compression algorithm to enable fast

transmission of a file. (Mazumder: Column 2, Lines 24-27)

Cook, Leftwich, and Mazumder are analogous art because they are from the

same field of endeavor, data monitoring and processing.

At the time of the invention it would have been obvious to a person of ordinary

skill in the art to compress the histogram information of Cook and Leftwich with the

compression algorithm of Mazumder.

The motivation for doing so would have been to enable efficient and fast

transmission over a network. **(Mazumder: Column 2, Lines 24-27)**

Therefore it would have been obvious to combine the compression algorithm of

Mazumder with the data monitoring and display system of Cook and Leftwich for the

benefit of fast and efficient transmission over a network to obtain the invention as

specified in claim 5.

35.   **Claim 8 is rejected using the same rationale as Claim 7.**

36.   Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et

al. (herein Cook (US Patent No. 6,965,574)), Leftwich (US Patent No. 6,356,256), and

further in view of Jamieson et al. (herein Jamieson (US Patent No. 6,577,323)).

37.   **Regarding Claim 12,** Cook and Leftwich fail to disclose using the listing and

description of downloaded captured data files to color code portions of the capture

histogram and the zoom histogram with a first color representing sections stored at the

user computer, color coding portions of the capture histogram and the zoom histogram

with a second color representing sections that were previously at the user computer, but

that are not presently at the user computer; and color coding portions of the capture

histogram and the zoom histogram with a third color representing sections that are not

stored at the user computer or at the network monitoring computer.

Jamieson discloses using the listing and description of downloaded captured data files to color code portions of the capture histogram and the zoom histogram with a first color representing sections stored at the user computer, color coding portions of the capture histogram and the zoom histogram with a second color representing sections that were previously at the user computer, but that are not presently at the user computer; and color coding portions of the capture histogram and the zoom histogram with a third color representing sections that are not stored at the user computer or at the network monitoring computer.

See Jamieson: Column 6, Line 60 - Column 7, Line 3. Jamieson teaches the use of color coding a graph according to varying indicators. The indicators may representative of many things. An indicator of data location is already part of the data file (see rejection rationale of Claim 7). The data plot can then be color coded according to data location.

Cook, Leftwich, and Jamieson are analogous because they are from the same field of endeavor, data presentation.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the color coded background of Jamieson **(Jamieson: Column 6, Line 64 - Column 7, Line 3)** with the data plots of Cook and Leftwich.

The motivation for doing so would have been to easily provide additional information to the user and to possibly to provide navigation to more detailed information. **(Jamieson: Column 6, Line 64 - Column 7, Line 3)**

Therefore it would have been obvious to combine the color coded background of

Jamieson with the data plots of Cook and Leftwich for the benefit of providing additional

information to the user and possibly providing navigation to more detailed information to

obtain the invention as specified in Claim 12.

Response to Arguments

38.   Applicant's arguments filed on 21 February 2007 have been fully considered but

they are not persuasive

39.   **Regarding claims 1-6, 9-11, and 13-18,** he Applicant contends that the

Examiner has failed to disclose which elements correspond with the elements of the

given claim. **However, as previously stated in the rejections it is apparent to one of**

ordinary skill in the art that one of ordinary skill in the art would know which

elements of a given figure would fulfill the claimed limitations. Furthermore, it is

apparent to one of ordinary skill in the art that one of ordinary skill in the art

would know that usage statistics and burst management would relate specifically

to network traffic.

40.   **Regarding claim 2,** the Applicant contends that the examiner has failed to

specifically address each limitation of the claim by rejecting it using the same rationale

as claim 2. **However, the Examiner has considered all of the limitations of claim 2,**

and has determined that the further limitation of graphing byte density over time

is rejected using the same rationale as the network traffic limitation of claim 1.

41.   **Regarding claims 19 and 23,** the Applicant contends that the examiner has

failed to address specific claim limitations by rejecting claims 19 and 23 under similar

rationale as claim 1. **However, it would be apparent to one of ordinary skill in the

art and one of the ordinary skill in the art would know what limitations of the

claims apply to the aforementioned rejection.** Also, the applicant attempts to

illustrate this point by stating that claim 19 has the limitation of a histogram and that

Figure 3 of Cook does not disclose a histogram. **However, in the rejections Cook was

never purported to disclose a histogram. In the rejection Leftwich discloses a

histogram.**

42.   **Regarding claim 23,** the Applicant contends that there is no motivation to

combine Almond with Leftwich and Cook in a manner that would result in the claimed

invention. **However, as previously stated in the rejection many operating systems

that have been used and that are used today include this function. By including

this function it adds organization and ease of use for the user. Therefore the

motivation of additional organization and ease of use would have been apparent

to one of ordinary skill in the art.**

43.   **Regarding the requests for affidavits,** the Applicant contends that the

Examiner has failed to provide the requested affidavits. **However, the Examiner is not

relying upon personal knowledge. It would be apparent to one of ordinary skill in

the art and one of ordinary skill in the art would know the aforementioned

information.**

44.   The Office would also like to note that the Applicant has maintained his previous arguments from the last response. Therefore the previous arguments and responses have been included.

45.   **Regarding Claim 1,** Applicant contends that the Examiner has completely failed to identify which elements of Cook correspond with the elements and processes of claim 1. **However, it would be known to one of ordinary skill in the art what elements of the Figure 3 of Cook fulfill the claimed limitations.** Furthermore the Applicant contends that the Examiner is relying on personal knowledge as a basis for rejecting claim 1. **However, the Examiner respectfully asserts that one of ordinary skill in the art would know that knowing the flow start time and end time gives you the total clock ticks of the capture. Also one of ordinary skill in the art would know in Leftwich: Figure 4 the graph contains tabs for usage statistics and burst management. These would be relating specifically to network traffic.**

46.   **Regarding Claim 9,** Applicant contends that the Examiner is relying on personal knowledge as a basis for rejecting claim 9. **However, it would be known to one of ordinary skill in the art that the system locates the files when it needs to access them for processing and displaying. Therefore, the system must contain indicators to locate the files it is using.**

47.   **Regarding Claim 13,** Applicant contends that the Examiner is relying on personal knowledge as a basis for rejecting claim 13. **However, it would be known to one of ordinary skill in the art that the original files were taken from the network monitoring computer and used at the graphical user interface of the user**

computer to generate the histogram. If specific files or data is requested that is not at the user computer the network monitoring computer is still fully capable of providing data.

48.   **Regarding Claim 15,** Applicant contends that the Examiner is relying on personal knowledge as a basis for rejecting claim 15. **However, it would be known to one of ordinary skill in the art that if the system can store the data it also will be able to open the stored files. The original files were taken from the network monitoring computer and used at the graphical user interface of the user computer to generate the histogram. If the saved file opens and specific files or data that is requested is not at the user computer the network monitoring computer is still fully capable of providing data.**

49.   **Regarding the motivation to combine Cook with Leftwich,** Applicant contends that there is not motivation to combine the teachings of Leftwich and Cook. **However, the Examiner respectfully asserts that Leftwich does indeed "make information easily perceivable by a user" as quoted in Column 1, Lines 28-31 of Leftwich. More specifically the Applicant contends that 'easily' is not defined, however Leftwich states that information is made easily perceivable to the user and therefore it is inherent in the reference.** Furthermore, Applicant contends that there is an absence of evidence that Cook is deficient in terms of making information perceivable to the user. **Cook makes no mention of making the information perceivable to the user and does not disclose a histogram. This is the reason that**

Leftwich was combined with Cook, to provide the teaching of a histogram that makes information easily perceivable by a user.

50.   **Regarding Claims 19 and 23,** Applicant contends that these claims are not the same as each other nor are they the same as claim 1. **However the Examiner notes that Claim 19 and 23 are rejected using the same rationale. It would be known to one of ordinary skill in the art what elements of the Figure 3 of Cook fulfill the claimed limitations. Furthermore, regarding claim 23 the limitations not disclosed using the rationale used to reject claim 1 are rejected using Official Notice.**

51.   **Regarding claim 23,** Applicant contends that the Examiner has used personal knowledge in taking Official Notice. **However, using Almond et al ((US Patent No. 6,112,024) herein after Almond) as an evidentiary reference, it is noted that in Figures 7A -7C Column 46, Lines 15-26 Almond teaches the top-level folder file structure. Also in Column 47, Lines 15 – 50 Almond discloses creating and naming folders and objects, or files.**

52.   **Regarding the motivation to combine Cook and Leftwich with Mazumder,** Applicant contends that there is not motivation to combine the teachings of Cook and Leftwich with Mazumder. Applicant implies that the motivation is poorly defined and an opinion of the Examiner. **However, the motivation is cited directly from the reference and therefore is inherently taught by the reference.** Furthermore, Applicant contends that there is an absence of evidence that Cook/Leftwich is deficient in terms of network transmission. **Cook/Leftwich do not mention that they are**

proficient in network transmission, which is why the reference of Mazumder is

brought in to provide efficient and fast transmission.

53.   **Regarding claim 12,** Applicant contends that the Examiner uses personal

knowledge to reject claim 12. **However, it would be known to one of ordinary skill in**

the art that an indicator of data location is already part of the data file and that the

data plot can then be color coded according to data location.

54.   **Regarding the motivation to combine Cook and Leftwich with Jamieson,**

Applicant contends that there is not motivation to combine the teachings of Cook and

Leftwich with Jamieson. Applicant implies that the motivation is poorly defined and an

opinion of the Examiner. **However, the motivation is cited directly from the**

reference and therefore is inherently taught by the reference. Furthermore, the

Applicant contends that there is an absence of evidence that Cook/Leftwich is deficient

in easily providing additional information or navigating to more detailed information.

Cook/Leftwich do not mention easily providing additional information or

navigating to more detailed information, which is why the reference of Jamieson

is combined with Cook/Leftwich.

55.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

56.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. McFadden whose telephone number is (571)272-8013. The examiner can normally be reached on Monday-Friday 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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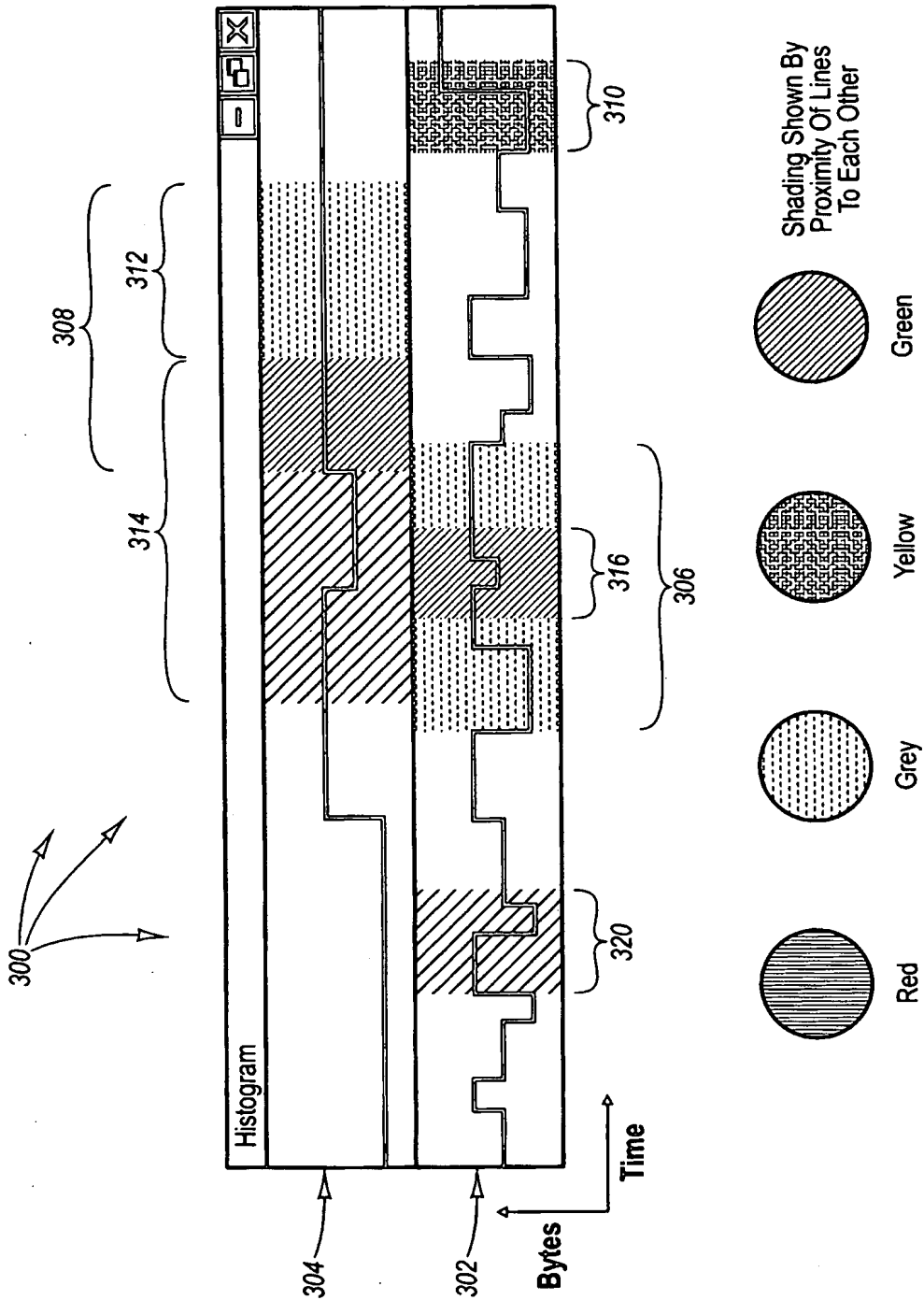05/02/2007

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Fig. 3